

United States Court of Appeals
For the Eighth Circuit

No. 17-2096

Glen Springer,

Plaintiff - Appellant,

v.

Corporal Benjamin Dale Caple, also known as D. Cable; D. Reed, Warden,
Ouachita River Unit, ADC; Dep. Assist. Warden Gary A. Musselwhite,

Defendants - Appellees.

Appeal from United States District Court
for the Western District of Arkansas - Hot Springs

Submitted: March 28, 2018

Filed: April 3, 2018

[Unpublished]

Before WOLLMAN, COLLOTON, and SHEPHERD, Circuit Judges.

PER CURIAM.

In this pro se 42 U.S.C. § 1983 action, Arkansas inmate Glen Springer appeals the district court's adverse grant of summary judgment. The district court granted summary judgment based on its conclusion that Springer failed to exhaust administrative remedies and failed to establish an Eighth Amendment violation.

Upon de novo review, *see King v. Iowa Dep't of Corrs.*, 598 F.3d 1051, 1052 (8th Cir. 2010), we agree with the district court that Springer failed to exhaust administrative remedies before filing suit and therefore affirm the dismissal of the action on that basis. *See* 42 U.S.C. § 1997e(a); *King*, 598 F.3d at 1053. We modify the dismissal, however, to be without prejudice. *See Porter v. Sturm*, 781 F.3d 448, 452 (8th Cir. 2015); *Davis v. Harmon*, 389 Fed. Appx. 587 (8th Cir. 2010) (unpublished per curiam). We also conclude the district court properly denied Springer's motion for reconsideration. *See United States v. Metro. St. Louis Sewer Dist.*, 440 F.3d 930, 933 (8th Cir. 2006).

The judgment is affirmed as modified. *See* 8th Cir. R. 47B.
